



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

LCC:ddj

Docket No: 1904-00

11 July 2000

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 11 July 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by BUPERS memorandum 1830 PERS 823 SER 1006 of 14 June 2000, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY

**NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000**

1830
Pers823
Ser 1006
14 Jun 00

**MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS**

Subj: COMMENTS AND RECOMMENDATIONS ICO [REDACTED]
[REDACTED]

Ref: (a) Pers-00XCB ltr of 15 May 2000

Encl: (1) BCNR File with Microfiche Service Record

1. Reference (a) requested comments and recommendations in subject member's case. Specifically, Petitioner request reinstatement to paygrade E-6.
2. After review of [REDACTED] enlisted service record, it has been determined that he was reduced in rate to paygrade E5 on 10 October 1978 due to his substandard performance in paygrade E-6 by the Petty Officer Quality Control Review Board and as approved by the Chief of Naval Personnel. His record indicates that he was counseled on this action and was afforded an opportunity to submit a rebuttal prior to this action taking place. No provision in law exists for reinstatement of a service member to a reduced paygrade after transfer to the Fleet Reserve other than as stipulated in 10 U.S.C. 6334.
3. Public Law 100-180, enacted 4 December 1987 (now codified in 10, U. S. C. 6334), provides for advancement on the retired list to the highest grade in which a member served on active duty satisfactorily as determined by the Secretary of the Navy. Legal representatives of the Judge Advocate General of the Navy have determined that only members who transfer to the Fleet Reserve after 4 December 1987 are eligible for consideration to be advanced on the retired list.
4. A review of the service record for Petty Officer [REDACTED] indicates that he was transferred to the Fleet Reserve effective 14 September 1979, and is not eligible for advancement to paygrade E-6 on the retired list.
5. It is recommended that Petty Officer [REDACTED] petition for correction to his records be denied as stated in paragraphs 2 through 4 above. Enclosure (1) is returned.

W. M. FARMER, JR.

Head, Enlisted Retirements Branch